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10 Attorneys for Plaintiffs

11 ACER, INC.,
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 13 GATEWAY, INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17 ACER, INC.,
 18 ACER AMERICA CORPORATION and
 19 GATEWAY, INC.,

20 Plaintiffs,

21 v.

22 TECHNOLOGY PROPERTIES
 23 LIMITED, PATRIOT SCIENTIFIC
 24 CORPORATION, and ALLIACENSE
 25 LIMITED,

26 Defendants.

27 Case No. C 08-00877 JF

28 **PLAINTIFFS' CIVIL L.R. 3-12
 ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED**

[CIV. L.R. 3-12]

21 HTC CORPORATION and
 22 HTC AMERICA, INC.,

23 Plaintiffs,

24 v.

25 TECHNOLOGY PROPERTIES
 26 LIMITED, PATRIOT SCIENTIFIC
 27 CORPORATION, and ALLIACENSE
 28 LIMITED,

Defendants.

Case No. C 08-00882 JL

ASUSTEK COMPUTER, INC. and
ASUS COMPUTER INTERNATIONAL,

Case No. C 08-00884 EMC

Plaintiffs,

V.

TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
CORPORATION, MCM PORTFOLIO
LLC and ALLIACENSE LIMITED,

Defendants.

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1 Pursuant to Civil Local Rule 3-12(b), plaintiffs Acer, Inc. (“Acer”), Acer America
 2 Corporation (“Acer America”) and Gateway, Inc. (“Gateway”) (collectively “Plaintiffs”) submit this
 3 Administrative Motion requesting consideration of whether the three cases list below, all of which
 4 are pending in this district, are related and should therefore be assigned to the same judge:

5 (1) *Acer, Inc., Acer America Corp. and Gateway, Inc. v. Technology*
 6 *Properties Ltd., Patriot Scientific Corp. and Alliacense Ltd.*, Case No.
 7 08-00877 JF (N.D. Cal., filed on February 8, 2008);
 8 (2) *HTC Corporation and HTC America, Inc. v. Technology Properties*
 9 *Ltd.; Patriot Scientific Corp. and Alliacense Ltd.*, Case No. 08-00882
 10 JL (N.D. Cal., filed on February 8, 2008); and
 11 (3) *ASUSTek Computer, Inc. and ASUS Computer Int'l v. Technology*
 12 *Properties Ltd., Patriot Scientific Corp., MCM Portfolio LLC and*
 13 *Alliacense Ltd.*, Case No. 08-00884 EMC (N.D. Cal., filed on February
 14 8, 2008) (collectively the “Actions”).

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 16 On February 8, 2008, Plaintiffs filed the first action identified above against
 17 Technology Properties Limited (“TPL”), Patriot Scientific Corporation (“Patriot”), and Alliacense
 18 Limited (“Alliacense”) (the “Acer/Gateway Action”) seeking declaratory judgment of non-
 19 infringement and invalidity of United States Patent Nos. 5,809,336 (“336 patent”), 5,784,584 (“584
 20 patent”), and 5,440,749 (“749 patent”) (collectively, the “patents-in-suit”). The second and third
 21 actions identified above were filed on the same date. As explained below, all three actions are
 22 “related” within the meaning of Civil Local Rule 3-12 and should be assigned to the same judge.

23 Local Rule 3-12 provides that an action is related to another action pending in this
 24 district when “(1) [t]he actions concern substantially the same parties, property, transaction or event;
 25 and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense
 26 or conflicting results if the cases are conducted before different Judges.” As shown in the chart
 27 below, the Actions satisfy both prongs of this test:
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No.	Plaintiffs	Defendants	Relief sought	Patents
08-877	Acer, Inc. Acer America Corp. Gateway, Inc.	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd.	Declaratory judgment of non-infringement and invalidity	5,440,749 5,784,584 5,809,336
08-882	HTC Corporation HTC America, Inc.	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd.	Declaratory judgment of non-infringement and invalidity	5,440,749 5,784,584 5,809,336 6,598,148
08-884	ASUSTek Computer ASUS Computer Int'l	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd. MCM Portfolio, LLC	Declaratory judgment of non-infringement and invalidity	5,440,749 5,784,584 5,809,336 6,438,638 6,976,623

As shown above, each of the Actions concerns substantially the same parties, property, transaction or event. All three actions involve three common patents-in-suit (i.e., the '336, '548 and '749 patents), which are allegedly owned or controlled by TPL, Patriot and/or Alliacense. A fourth patent at issue in the HTC action, U.S. Patent No. 6,598,148 ("148 patent"), is in the same family as the three common patents and is a direct descendent of the '336 patent. All three actions essentially seek the same relief, and the defendants are substantially identical.¹

The second prong of Local Rule 3-12(a) is also satisfied. Because the Actions involve common patents and identical defendants, they will require adjudication of many common legal and factual issues relating to claim construction, invalidity, ownership, standing and other affirmative defenses. Having the Actions conducted before more than one judge would create an unduly burdensome duplication of labor and expense and would present a substantial possibility of conflicting results on common legal and factual issues.

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¹ The ASUSTek action has one additional defendant, MCM Portfolio LLC ("MCM"). Plaintiffs believe that MCM is merely a patent holding company that is owned or controlled by the other defendants, thus presenting no material difference in the identity of the defendants.

Because the Actions satisfy both prongs of Local Rule 3-12(a), Plaintiffs respectfully request that the Actions be deemed “related” to each other and assigned to Judge Jeremy Fogel pursuant to Local Rule 3-12(f).

Date: April 3, 2008
Respectfully submitted,
WHITE & CASE LLP

Attorneys for Plaintiffs Acer, Inc.,
Acer America Corp. and Gateway, Inc.